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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \* \* \*

BOARD OF TRUSTEES OF THE  
 PAINTERS AND FLOORCOVERERS  
 JOINT COMMITTEE,

Plaintiff,

vs.

AWESOME FLOORS, INC., a Nevada  
 corporation; SME STEEL COATINGS, LLC  
 a Utah limited liability company; R. B. F.  
 LLC dba BETTER BUILDING SYSTEMS, a  
 Nevada limited liability company; MASTER  
 CRAFT CARPET SERVICE, INC., a foreign  
 corporation,

Defendants.

CASE NO.:

**COMPLAINT FOR BREACH OF  
CONTRACT**

The Plaintiff, the Board of Trustees of the Painters and Floorcoverers Joint Committee  
 (“Plaintiff” or “Joint Committee”), by and through its attorneys, Christensen James & Martin,  
 Chtd., for its causes of actions, complains, asserts and alleges as follows:

**JURISDICTION & VENUE**

1. This Court has jurisdiction of this case pursuant to Section 502(e)(1) of the  
 Employee Retirement Income Security Act of 1974, as amended (“ERISA”), 29 U.S.C. §  
 1132(e)(1), which grants the United States District Courts exclusive jurisdiction over civil

1 actions brought by a fiduciary pursuant to Section 502(a)(3) of ERISA, 29 U.S.C. § 1132(a)(3),  
2 to redress violations or enforce the terms of ERISA or an employee benefit plan governed by  
3 ERISA. Such jurisdiction exists without respect to the amount in controversy or the citizenship  
4 of the parties, as provided in Section 502(f) of ERISA, 29 U.S.C. § 1132(f).

5  
6 2. This Court has jurisdiction of this case pursuant to Section 301(a) of the Labor  
7 Management Relations Act of 1947, as amended (“LMRA”), 29 U.S.C. § 185(a), which grants  
8 the United States District Courts original jurisdiction over suits for violation of contracts  
9 between an employer and labor organization in an industry affecting commerce, without respect  
10 to the amount in controversy or the citizenship of the parties.

11 3. To the extent this Complaint sets forth any state law claims, this Court has  
12 supplemental jurisdiction over those claims pursuant to 28 U.S.C. § 1367(a).

13  
14 4. Venue is proper in this Court pursuant to Section 502(e)(2) of ERISA, 29 U.S.C.  
15 § 1132(e)(2), and Section 301(a) of the LMRA, 29 U.S.C. § 185(a), in that this is the Judicial  
16 District in which the Trust is administered.

17 **PARTIES**

18 5. The Joint Committee is an express trust created pursuant to a written declaration  
19 of trust (“Trust Agreement”) between various employer associations and independent employers  
20 and the International Union of Painters and Allied Trades, District Council 16 (formerly District  
21 Council 15), Painters Union Local No. 159 and Floorcoverers Union Local No. 1512.

22  
23 6. The Joint Committee exists to provide employee benefits to participants under a  
24 “multiemployer plan,” “employee benefit plan,” and/or “employee welfare benefit plan” within  
25 the meaning of ERISA, 29 U.S.C. § 1002.

26 7. The Board of Trustees and the individual Trustees of the Joint Committee is a  
27 “named fiduciary,” “plan administrator” and “plan sponsor” and each is an individual  
28

1 “fiduciary,” within the meaning of 29 U.S.C. §§ 1102(a), 1002(16) and (21), with respect to  
2 collection of employer contributions and enforcement of obligations under the Trust Agreement.

3 8. The Joint Committee was created and now exists pursuant to § 302(c) of the  
4 LMRA, 29 U.S.C. § 186(c).

5 9. Under the terms of the CBAs (defined below) and the Joint Committee’s Trust  
6 Agreement, the Joint Committee is charged with adjusting all disputes and grievances that may  
7 arise out of the application or interpretation of the CBAs and taking court action to secure  
8 compliance with the CBAs as necessary.  
9

10 10. At all times material herein through September 23, 2018, Painters Union Local  
11 No. 159 and Floorcoverers Union Local No. 1512 were affiliated with the International Union of  
12 Painters and Allied Trades, District Council 15. Effective September 24, 2018, International  
13 Union of Painters and Allied Trades, District Council 15 was dissolved and/or terminated and  
14 Painters Union Local No. 159 and Floorcoverers Union Local No. 1512 were merged into  
15 International Union of Painters and Allied Trades, District Council 16. The International Union  
16 of Painters and Allied Trades, District Council 16 (formerly District Council 15), Painters Union  
17 Local No. 159 and Floorcoverers Union Local No. 1512 may be referred to hereinafter as the  
18 “Union.”  
19

20 11. At all times material herein, the Union has been a labor organization representing  
21 employees in the painting, drywall, decorating and floorcovering industries in Nevada and a  
22 labor organization representing employees in an industry affecting commerce within the meaning  
23 of 29 U.S.C. §§ 152(2), (6) and (7), , 1002(5), (11) and (12).  
24

25 12. Defendant Awesome Floors, Inc. (“Awesome”) is a Nevada corporation doing  
26 business as a flooring contractor in Clark County, Nevada under Nevada Contractor’s License  
27 Nos. 0059488 and 0071939.  
28

1           13. Defendant S M E Steel Coatings, LLC (“SME”) is a foreign limited liability  
2 company doing business as a painting contractor in Clark County, Nevada under Nevada  
3 Contractor’s License Nos. 0079109 and 0057439.

4           14. Defendant R. B. F. LLC dba Better Building Systems (“BBS”) is a Nevada  
5 corporation doing business as a painting contractor in Clark County, Nevada under Nevada  
6 Contractor’s License Nos. 0073381, 0067118 and 0073382.

7           15. Defendant Master Craft Carpet Service, Inc. (“Master Craft”) is a foreign  
8 corporation doing business as a flooring contractor in Clark County, Nevada under Nevada  
9 Contractor’s License Nos. 0070381, 0079295, 0075938, 0082887 and 0082886. (Hereafter  
10 “Awesome”, “SME”, “BBS”, “JSC” and “Master Craft” may be collectively referred to as  
11 “Defendants”).  
12

13  
14                                   **GENERAL ALLEGATIONS**

15           16. Defendants are parties or subject to that certain Painters & Decorators Master  
16 Agreement between the Union and the Southern Nevada Chapter of the Painting and Decorating  
17 Contractors of America (“PDCA”) or the Western Walls and Ceilings Contractors Association  
18 (“WWCCA”) (“Painters CBA”) or the Floorcoverers Master Agreement between the Union and  
19 the Southern Nevada Painting and Decorating Contractors of America/Finishing Contractors  
20 Association (“Floorcoverers CBA”) (hereafter “Painters CBA” and “Floorcoverers CBA” may  
21 be collectively referred to as “CBAs”).  
22

23           17. Defendant Master Craft is bound by a Project Labor Agreement by and between  
24 Mortenson/ McCarthy Las Vegas Stadium, a Joint Venture and the Southern Nevada Building  
25 and Construction Trades Council and The Craft Unions & District Councils (“PLA”) for the  
26 construction of a professional NFL football stadium located at 5617 Dean Martin Dr., Clark  
27 County, Nevada (“Stadium”).  
28

1           18.     The PLA provides that Master Craft is subject to the Floorcoverers CBA once it  
2 has executed the document or if it performs any work on the job site. The PLA further states that  
3 if it is silent on any issue, then the Floorcovers CBA controls. The PLA does not address bonds,  
4 so the Floorcoverers CBA bonding provision controls, which requires providing a surety bond,  
5 as described herein.  
6

7           19.     Defendants are obligated by the CBAs to pay fringe benefit contributions to  
8 several multiemployer employee benefit trust funds (hereafter collectively "Trust Funds"),  
9 including the Plaintiff, on a monthly basis and at specified rates for each hour worked by or paid  
10 to its employees for performance of labor covered by the CBAs.  
11

12           20.     One of the express terms of the CBAs is that Defendants provide to the Plaintiff a  
13 surety bond to guarantee payment of the obligations to the Joint Committee and Trust Funds  
14 under the applicable CBA.

15           21.     Specifically, Article 17, Section 9 of the Floorcoverers CBA states:

16                   Bonding - Effective December 1, 2013, each Employer that is Signatory to  
17 this Agreement shall provide to the Floor Coverer's Joint Committee a  
18 surety bond in the amount of \$50,000 to guarantee payment of Trust Fund  
obligations.

19           22.     Specifically, Article 14, Section 1 of the Painters CBA with WWCCA states:

20                   On or after July 1, 2004 all employers signatory to this agreement shall  
21 provide and be covered by a surety bond for no less than thirty thousand  
22 dollars (\$30,000) for the purpose of protecting the Trust Funds as provided  
23 for in this agreement. The Joint Committee will review all applications  
and issue Shop Cards. The Committee shall have the authority, based upon  
past work and financial responsibilities, to require higher bond limits.

24           23.     Specifically, Article 14, Section 1 of the Painters CBA with PDCA states:

25                   On or after July 1, 2004 all employers signatory to this agreement shall  
26 provide and be covered by a surety bond for no less than thirty thousand  
27 dollars (\$30,000) for the purpose of protecting the Trust Funds as provided  
28 for in this agreement. The Joint Committee will review all applications

and issue Shop Cards. The Committee shall have the authority, based upon past work and financial responsibilities, to require higher bond limits.

24. Further, the written policies and procedures adopted by the Plaintiff and Trust Funds expressly state:

8. **Surety Bonds.** Certain Labor Agreements and Trust Agreements require Employers to post a surety bond for the benefit of the Trust Funds to secure payment of contributions to the Trust Funds. Regardless of any requirement in a Labor Agreement or Trust Agreement, the Trustees have the authority, in their sole discretion, to require Employers to post a surety bond in favor of the Trust Funds or to require higher bond limits based on the past work and financial responsibility of the Employer.

8.1 **Form and Amount.** Each Employer must provide to the Trust Funds a surety bond on a form acceptable to the Trust Funds and in the amount required by the applicable Labor Agreement, Trust Agreement, or the Trustees.

8.4 **Breach.** All Employers that fail to deliver and provide an acceptable surety bond shall be in breach of the provisions of the Labor Agreement and these Policies.

8.5 **Enforcement.** The Collection Attorney may assist the Administrator to obtain a bond from any Employer that refuses or fails to provide any required surety bond. The Trust Funds or the Joint Committee may initiate legal and administrative proceedings to enforce the surety bond requirements of the Labor Agreement and these Policies against any Employer who fails to provide a surety bond.

*The Southern Nevada Painters and Glaziers Joint Trust Funds Restated Policies and Procedures* [Effective Date: July 1, 2017], at Section 8 (“Joint Policies & Procedures”).

25. The Plaintiff is a third party beneficiary of the bond obligations described herein.

26. The Plaintiff has made numerous requests that Defendants each provide the surety bond as required by the CBAs and Joint Policies and Procedures.

27. Defendants have failed to provide the required surety bond.

[Breach of Contract – 29 U.S.C. § 1132(a)(3)]

30. The CBAs executed by Defendants are valid and binding contracts, the terms of the Plaintiff is charged to enforce.

31. The CBAs require Defendants to provide a surety bond to guarantee payment of  
and fringe benefit contributions, as described herein.

32. ERISA allows a fiduciary to enjoin any act or practice which violates any the of the plan, or to obtain other appropriate equitable relief and to redress such violations or force any provisions of the terms of the plan.

33. The LMRA governs suits for violation of contracts between an employer and a organization.

34. The Defendants' failure to each properly provide a surety bond, as detailed in the  
 ing paragraphs, constitutes violations of ERISA, the LMRA and a material breach of the

35. According to the CBAs and applicable law, Defendants have breached the express of the CBAs by failing to immediately and fully comply with providing the surety bond to Plaintiff.

36. As fiduciaries of the Trust and the party charged with adjusting all disputes and  
 nces that may arise out of the application or interpretation of the CBAs, the Plaintiff may  
 e the terms of the CBAs and require that Defendants provide a surety bond.



1           43.     The actions of Defendants in failing to comply or to ensure compliance with the  
2 CBAs in providing surety bonds, as described herein, constitute violations of ERISA and the  
3 LMRA and is damaging to the well being of the Plaintiff and the Trust Funds.

4           44.     The contract breaches and violations of ERISA and the LMRA harm the Plaintiff  
5 and the Trust Funds and their participants because they place at risk their ability to provide  
6 required benefits to their beneficiaries.

7           45.     The Plaintiff's remedies at law are not sufficient to adequately compensate the  
8 Plaintiff or the Trust Funds or their beneficiaries from past harm caused by said violation, or to  
9 protect them from the harm or threat of harm caused by a similar future violation.  
10

11           46.     Plaintiff is likely to prevail on the merits of its claims.

12           47.     Plaintiff is entitled to equitable relief affirmatively compelling Defendants to each  
13 provide a surety bond pursuant to the applicable CBAs for the benefit of Plaintiff and the Trust  
14 Funds.  
15

16           48.     Defendants' actions, in failing to respond to multiple requests and demands for  
17 the surety bond or by refusing to post the surety bond, have required the Plaintiff to retain legal  
18 counsel and initiate this lawsuit to enforce the Plaintiff's rights under the CBAs, which would  
19 not have been necessary if Defendants had provided a timely response and/or provided the  
20 requested surety bond. Therefore, the Plaintiff is entitled to an award of reasonable attorney's  
21 fees and costs.  
22

23                           **PRAYER FOR RELIEF**

24           WHEREFORE, the Plaintiff prays for Judgment against Defendants, as follows:

25           1.     For the Court's Order compelling Defendants to each provide a surety bond as  
26 described in the applicable CBAs;  
27  
28

1           2.       For equitable relief as the Court may deem appropriate under 29 U.S.C. §  
2 1132(a)(3);

3           3.       For damages for breach of contract;

4           4.       For Plaintiff's reasonable attorney's fees and costs of suit incurred herein;

5           5.       For such additional relief as may be provided for by 29 U.S.C. § 1132;

6           6.       For such additional relief as this Court may deem just and proper.  
7

8 Dated this 29th day of July, 2019.

9 CHRISTENSEN JAMES & MARTIN

10  
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